

1 UNITED STATES DISTRICT COURT  
2 FOR THE DISTRICT OF MASSACHUSETTS  
3  
4

5 IN RE: NEW ENGLAND  
6 COMPOUNDING PHARMACY,  
7 INC. PRODUCTS LIABILITY MDL No. 2419  
8 LITIGATION

Master Dkt:  
1:13-md-02419-RWZ

9 ~~~~~  
10 THIS DOCUMENT RELATES  
11 TO:  
12

All Actions  
13  
14 ~~~~~  
15

16 30(b)(6) VIDEOTAPED DEPOSITION OF  
17 JEFFERY EBEL  
18

19 9:05 a.m.  
20 May 29, 2015  
21

22 Suite 1740  
23 414 Union Street  
24 Nashville, Tennessee  
25

Blanche J. Dugas, RPR, CCR No. B-2290

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1 A. Yes.

2 Q. All right. And so originally you did not

3 want to talk with lawyers. Is that also true?

4 A. Yes.

5 Q. Okay. But you have talked to me on one

6 occasion before today; is that true?

7 A. Yes.

8 Q. Have you also talked with some other lawyer

9 involved in the litigation?

10 A. I have had a couple attorneys that I don't

11 recall their name, they have called --

12 Q. Okay.

13 A. -- in the past.

14 Q. And do you remember whether they were

15 representing healthcare providers in this litigation,

16 maybe the Saint -- one of the St. Thomas entities?

17 A. I don't think so. I don't know.

18 Q. Okay. Fair enough. I'd like to start with

19 a few questions about your background if I could.

20 Where are you from originally?

21 A. Illinois.

22 Q. All right. And what brought you to

23 Tennessee?

24 A. My wife got a degree in the music business.

25 Q. And how long have you lived in Tennessee?

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1 A. Since 1979.

2 Q. All right. And could you give us just a

3 thumbnail sketch of your educational background.

4 A. Yes. I've got a bachelor's degree in

5 psychology from Southern Illinois University. And I

6 don't have a master's degree in anything. That was as

7 far -- that's as high as I went.

8 Q. Okay. And so when did you start the

9 company known as Clint Pharmaceuticals, Incorporated?

10 A. June of 1987.

11 Q. And what prompted you to start the company?

12 A. The company that I was with was getting out

13 of the corticosteroid market.

14 Q. I see.

15 A. And they were going with oral solid

16 products and I liked the injectable market and so I

17 started the company.

18 Q. I see. And so how would you describe your

19 company to someone who is not familiar with it?

20 A. We have always been an injectable company.

21 We've always specialized in corticosteroids and we --

22 the products -- we have a vast array of products. A

23 lot of them kind of center around corticosteroids and

24 are kind of offshoots of corticosteroids.

25 Q. And what are corticosteroids?

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1 A. They are anti-inflammatory preparations.

2 Q. Now, does the -- does the category of drugs

3 known as corticosteroids include a particular medicine

4 known as methylprednisolone acetate, what we call MPA?

5 A. Yes.

6 Q. And over what geographic region does your

7 company sell corticosteroids?

8 A. We're in the United States in all 50

9 states. We go into some of the territories as well.

10 Q. And where is your company headquartered?

11 A. Nash -- Old Hickory, Tennessee.

12 Q. And how long has it been headquartered in

13 Old Hickory?

14 A. Since September of 1999.

15 Q. And approximately how many employees does

16 your company have?

17 A. We currently have about 22.

18 Q. And what type of customers does your

19 company sell corticosteroids to?

20 A. We market to the outpatient market. So a

21 physician office, a clinic or a surgery center, we

22 would market to those people. We do not go into

23 hospitals generally.

24 Q. Okay. And how long has your company sold

25 corticosteroids that could be used in epidural steroid

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1 injections?

2 A. We've sold corticosteroids since the

3 inception of the company. And how they're used, we

4 don't -- we don't actually -- are able to see that.

5 That's usually up to the physician, how they use it.

6 Q. Okay. Now, are you a -- is your company a

7 pharmacy?

8 A. It's considered a wholesale -- we're

9 considered a wholesale drug distributor.

10 Q. All right. And what does that mean?

11 A. That means that we have a license to

12 distribute drugs in the state of Tennessee and any

13 state that we're licensed in.

14 Q. And in Tennessee, who issues that license?

15 A. I'm -- the Board of Pharmacy.

16 Q. Okay. So what is the difference between a

17 wholesale drug distributor and a pharmacy?

18 A. A pharmacy typically we think of as like

19 either a hospital pharmacy where the pharmacist is --

20 is dispensing to patients in the hospital or if you

21 think of a retail pharmacy where the pharmacist is

22 dispensing to the general public. We only sell to

23 licensed physicians in the facilities that we -- that

24 have a license to carry and use these type of

25 products.

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1 methylprednisolone acetate by Pfizer.  
 2 Q. Okay. And so --  
 3 A. And I can --  
 4 Q. -- to make sure I understand your  
 5 testimony, the limited supply referred to the generic  
 6 MPA manufactured by Sandoz; is that correct?  
 7 A. Right.  
 8 Q. But the brand name MPA, Depo-Medrol, made  
 9 by Pfizer was not in limited supply; is that true?  
 10 A. Correct.  
 11 Q. And is there any difference between the  
 12 generic and the brand name as far as you know other  
 13 than price?  
 14 A. I don't know of any difference between the  
 15 two products as far as patient benefits. I only know  
 16 that the price might be a difference.  
 17 Q. Okay. And so when your company realized  
 18 there might be a restriction on the supply of the  
 19 generic but not the brand name MPA, what did your  
 20 company do?  
 21 A. Would you repeat that, please.  
 22 Q. When your company recognized that there  
 23 would be a restriction in the supply of the generic  
 24 but not the brand name MPA --  
 25 A. Uh-huh (affirmative).

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1 Q. -- what did your company do?  
 2 A. We were not -- we did not really give  
 3 discounts as much --  
 4 Q. I see.  
 5 A. -- as we did in the past. Because we knew  
 6 we were going to run out of the product.  
 7 Q. And so did your company ever run out of  
 8 Depo-Medrol?  
 9 A. No.  
 10 Q. So were there any customers that your  
 11 company had to turn away because it did not have an  
 12 adequate supply of Depo-Medrol?  
 13 A. I do not -- I am not aware of one customer.  
 14 Q. So am I correct in understanding that if  
 15 St. Thomas Outpatient Neurosurgical Center had chosen  
 16 to continue doing business with your company, you  
 17 could have supplied them with plenty of Depo-Medrol,  
 18 but the price would have been a little bit higher than  
 19 what that entity had been previously paying for the  
 20 generic version?  
 21 A. Yes.  
 22 MR. TARDIO: Object to the form.  
 23 THE WITNESS: I think that I have the  
 24 price here, and it looks like it would be  
 25 \$9.95 a vial.

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1 Q. (By Mr. Nolan) Okay. And what are you  
 2 referring to?  
 3 A. I'm referring to our catalog price in the  
 4 fall of 2012.  
 5 Q. And I'd like to make that particular  
 6 catalog -- we'll make the catalog -- the entire  
 7 catalog Exhibit No. 281. We'll copy that during a  
 8 break.  
 9 Now, what about after the fungal meningitis  
 10 catastrophe became public in October of 2012? When  
 11 that news hit the press, did your company experience  
 12 an upsurge in demand for FDA approved corticosteroids?  
 13 A. Yes.  
 14 Q. Okay.  
 15 A. Our -- our phones were ringing off the  
 16 hook.  
 17 Q. Okay.  
 18 A. People were wondering, okay, where they  
 19 could get FDA approved product. They were calling  
 20 with all sorts of questions.  
 21 Q. And --  
 22 A. That was kind of like 2001 and the World  
 23 Trade Center for us.  
 24 Q. Okay.  
 25 A. I mean, you remember where you were at.

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1 Q. And so was there an increased demand for  
 2 Depo-Medrol?  
 3 A. Absolutely.  
 4 Q. All right. Did your company ever run out  
 5 of Depo-Medrol during that busy time?  
 6 A. No, we did not.  
 7 Q. In addition to Depo-Medrol, are there other  
 8 injectable corticosteroids appropriate for use in  
 9 epidural steroid injections that you sell?  
 10 A. Let me give a little bit more information  
 11 to the last question --  
 12 Q. Okay.  
 13 A. -- if I could, which was did we ever let  
 14 anybody run out.  
 15 If -- let's say during that time there's a  
 16 good possibility -- let's say somebody ordered 2,000  
 17 vials of Depo-Medrol single dose vials, we might have  
 18 said, well, okay, how many do you use in a month.  
 19 They say they use 200 in a month. We might have given  
 20 them a partial order so that other people could get  
 21 the product, but we did not let anybody run out.  
 22 Q. I see. Okay. Fair enough.  
 23 And in addition to Depo-Medrol, are there  
 24 other injectable corticosteroids that your company  
 25 sells?